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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,131	06/29/2006	Claudio Bargheer	095309.56912US	1684
23911 7590 12/19/2008 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			EXAMINER KOSANOVIC, HELENA	
			ART UNIT 3749	PAPER NUMBER
			MAIL DATE 12/19/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/553,131

Applicant(s)

BARGHEER ET AL.

Examiner

HELENA KOSANOVIC

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-824)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 10/16/08, 9/22/08, 6/6/08

DETAILED ACTION

Applicant's amendments filed 9/22/08 are acknowledged.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Gallup 5,524,439 in view of Wallman 6,048,024.

Gallup teaches the invention as claimed:

Regarding claim 8, an air supply device (fig. 2) for an automotive seat comprising: an air duct 46, which is arranged at the delivery side of a fan 42 and has at least one air outlet opening (see paragraph below where the examiner labeled originally not labeled elements with darkened arrow)provided in the upper region of the seat for supplying the head, shoulder and neck region of a seat occupant 12 with a flow of air, a heating element 34 arranged in the air duct between the fan and the air outlet opening, and at least one sensor 102 for detecting a parameter value as a function of which the flow of air emerging from the air outlet opening is controlled, wherein the sensor is arranged inside the air duct between (fig. 2) the air outlet opening and the heating element.

Regarding claim 9, wherein the sensor is designed as a temperature sensor(col. 8, ll. 55-57).

Regarding claim 10, wherein at least one of the heating element and the fan is controlled as a function of the parameter value detected by the sensor (fig. 2).

Regarding claim 11, wherein the sensor is arranged close to a grating element 16 (col. 5, ll. 30-32) positioned inside the air duct.

Regarding claim 12, wherein the grating element is arranged close to the air outlet opening of the air duct (fig. 2).

Regarding claim 13, about the sensor being integrated into the grating element, at the time the invention was made it would have been obvious mater of design choice to a person of ordinary skill in the art to have the sensor integrating into the grating instead of having the sensor behind the grating, because applicant has not disclosed that the claimed location provides an advantage is used for particular purpose or solves a stated problem. One of ordinary skill in the art would have expected the Applicant's invention to perform equally well with the sensor integrating into the granting or not, because both locations performs the function of sensing the air temperature equally well.

Gallup teaches the invention as discussed above but is silent about air supply device being located completely inside a backrest of the automotive seat.

Wallman teaches air supply device 10, 61 located completely inside a backrest 3 of the automotive seat 1 (fig. 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the Gallup air supply device with the Wallman air supply device located inside the seat, because the substitution of one known element for another would have yielded predictable results of moving the air from the fan to the duct opening.

2. Claim 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallup 5,524,439 in view of Wallman 6,048,024 and further in view of Brand 4,491,270.

Gallup in view of Wallman teaches the invention as discussed above but is not specific about the sensor being borne by a socket part which can be inserted into a locating slot at an end of the air duct assigned to the air outlet opening.

Brand teaches the sensor 30 (fig. 2) having a socket part (see paragraph below where the examiner labeled originally not labeled elements with darkened arrow) located in a slot (see paragraph below where the examiner labeled originally not labeled elements with darkened arrow).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have the Gallup in view of Wallman invention modified with the Brand sensor socket located in the slot in order to attach the sensor to the duct.

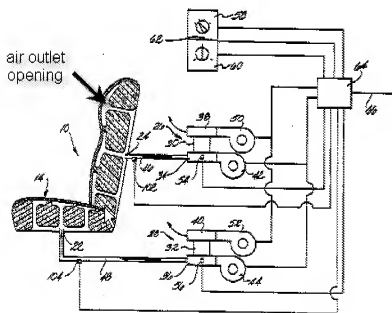
3. Claim 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallup 5,524,439 in view of Wallman 6,048,024 and further in view of Japanese patent Jp-1099266U (as cited by applicant in IDS filed 6/6/2008).

Gallup in view of Wallman teaches the invention as discussed above but is silent about having the air outlet opening visible from outside the backrest.

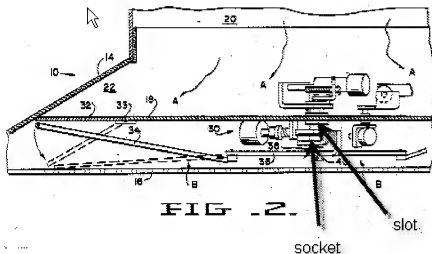
Japanese patent teaches the outlets 5, 6 visible from outside the backrest. (fig. 1)

It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the Gallup in view of Wallman air outlet opening with the Japanese patent openings visible from outside the back seat, because the substitution of one known element for another would have yielded predictable results of moving the air through the opening.

4. Examiner labeled originally not labeled elements with darkened arrow.



(fig. 2 of Gallup)



(fig. 2 of Brand)

Response to Arguments

Applicant's arguments filed 9/22/08 have been fully considered but they are not persuasive.

Regarding Applicant's argument that that fan 42 is not disposed in the lower end of the air supply device, the examiner disagrees. As shown in figure 2, fan 42 is disposed at the lower end of the air device 42, 34, 42. As is clearly shown in figure 2, fan 42 is on the lower end of said air device.

Regarding argument that air device is not completely arranged inside a backseat, the examiner applied new reference for said limitation, as discussed above.

Therefore instant application is not patentably distinct over the prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **HELENA KOSANOVIC** whose telephone number is (571)272-9059. The examiner can normally be reached on 8:30-5:00, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. K./
Examiner, Art Unit 3749

/Steven B. McAllister/
Supervisory Patent Examiner, Art Unit 3749
112408